



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 16, 1993

Ms. Gretchen Kuehn Bohnert  
Assistant City Attorney  
City of Houston  
P. O. Box 1562  
Houston, TX 77251-1562

OR93-564

Dear Ms. Bohnert:

You ask for reconsideration of informal open records decision OR93-450 (1993). You urge that information relating to a certain police officer maintained by the Internal Affairs Division of the Houston Police Department ("the department") is excepted from required public disclosure by section 552.101 of the Government Code, former section 3(a)(1) of V.T.C.S. 6252-17a<sup>1</sup> in conjunction with section 143.089(g) of the Local Government Code. Furthermore, while the request was from the police officer, you contend that a police officer's right of access to information in his personnel file granted in section 143.089(e) of the Local Government Code only applies to information in the Civil Service file of the officer and does not apply to information in the officer's personnel file maintained by the department's Internal Affairs Division.

Recently, the Third Court of Appeals in Austin construed the scope of section 143.089(g). See *City of San Antonio v. Morales* 851 S.W.2d 946 (Tex. App.--Austin 1993, writ requested). However, since this office applied for a writ of error before the Texas Supreme Court, challenging the holding of the Austin court, in a case styled *City of San Antonio v. Morales*, Cause No. 03-91-00461-CV,<sup>2</sup> it is inappropriate for this office to opine on your request at this time. The outcome of *City of San Antonio* will apparently determine the resolution of your claim under section 143.089(g) and will necessarily moot any decision this office might reach regarding the application of this provision. For

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<sup>1</sup>The Open Records Act, former V.T.C.S. article 6252-17a, is now codified at Chapter 552 of the Local Government Code.

<sup>2</sup>The case has been assigned docket number D-3910.

these reasons, we are closing the file to this request. We are returning the documents you submitted for our inspection.

We advise that you await the decision of the Texas Supreme Court on the application for a writ of error. After that decision is issued, you may resubmit your request for reconsideration of OR93-450. If you have any questions, please contact this office.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Kay Guajardo".

Kay Guajardo  
Assistant Attorney General  
Open Government Section

KHG/rho

Ref.: ID# 21412

Enclosures: Submitted documents